

# **COLORADO STATE BOARD OF PHARMACY**

**December 10, 2012**

## **Minutes**

The Colorado State Board of Pharmacy meeting was convened by President Paul Limberis, RPh, at approximately 8:33 a.m. on Monday, December 10, 2012 at 1560 Broadway, Conference Room 110 D, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Professions and Occupations Policy Number 80-17.

Board members attending were: Jeannine Dickerhofe, RPh; Heather Hawker, JD; Donald Johnson, RPh; Paul Limberis, RPh; Ginny Orndorff, MBA; Armand Potestio, RPh; and Luis Rivera-Lleras, RPh.

Staff members attending were: Wendy Anderson, RPh, Program Director; Chris Gassen, RPh, Chief Inspector; and Jean Rowcliffe, Complaint and Licensing Specialist. Also present were Jo Kaye, Assistant Attorney General; and Eric Maxfield, First Assistant Attorney General, to advise the Board.

## **APPROVAL OF THE MINUTES**

The Board approved of the minutes from the September 20, 2012 and October 9, 2012 meetings as amended. The Board also approved, with Ginny Orndorff not voting, of the minutes from the November 2, 2012 meeting.

## **APPEARANCES**

Lauren Larson, Director of the Division of Professions and Occupations; and Ronne Hines, Acting Healthcare Section Director, introduced themselves to the Board.

## **REPORTS**

### **President's Remarks**

Paul Limberis provided a brief report to the Board regarding his attendance at the American Society of Health-System Pharmacists Mid-Year Meeting held in Las Vegas, NV in early December 2012.

Jeannine Dickerhofe provided a brief report to the Board regarding her attendance at the National Association of Boards of Pharmacy District 6, 7 and 8 Annual Conference held in Little Rock, AR in October 2012.

### **Program Director's Report**

Ms. Anderson presented a proposed amendment to Board Policy 10-6 (Delegation of Authority to Program Director or Section Director) to address the Program Director's handling of both confidential agreements and instances in which there is substantive proof that a pharmacist or pharmacy intern had admitted to controlled substance diversion. Ms. Anderson asked that the Board not consider the handling of confidential agreements as proposed in this policy until a future meeting. After careful consideration, the Board voted unanimously to approve of the proposed amendment addressing instances in which there is substantive proof that a pharmacist or pharmacy intern had admitted to controlled substance diversion.

At the request of Ms. Anderson, the proposed Annual Designation of the 2013 Colorado State Board of Pharmacy Meeting Notices was removed from the agenda.

Ms. Anderson presented previously approved Board Policies 30-5 (Unregistered/Unlicensed Activity) and 30-10 (Issuance of Licenses or Registrations to Facilities with Prior Cease and Desist Orders), and requested guidance on how to proceed when registered entities are issued Cease and Desist Orders on the basis of practicing outside the scope of that registration. The Board directed its staff to propose amendments to both policies to address this issue for consideration at a future Board meeting.

Ms. Anderson presented ideas to and requested guidance from the Board regarding methods to reach out to nonresident prescription drug outlets about the legalities of distributing compounded stock preparations into Colorado. The Board directed its staff to develop an affidavit to be sent to each nonresident pharmacy in which each nonresident pharmacy attests that all drugs delivered into Colorado are limited only pursuant to valid, patient-specific prescription orders.

Ms. Anderson updated the Board regarding the status of Colorado's Prescription Drug Monitoring Program's upcoming participation in the National Association of Boards of Pharmacy PMPi program.

Ms. Anderson introduced Jean Rowcliffe, the Board's new Complaint Analyst and Licensing Specialist. Ms. Rowcliffe started her new position with the Board on December 3, 2012. In addition, Ms. Anderson expressed her gratitude for Inspector Lisa Cornett's work in temporarily working in that role while the position was vacant.

**Colorado Pharmacists Society (CPS) – Paul Limberis, RPh**

No report was provided.

**Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh**

Paul Limberis reported that the scheduled November 8, 2012 meeting of the GEEERC was cancelled. The next meeting is scheduled for February 7, 2013.

**Intern & School Relations – Jeannine Dickerhofe, RPh**

Rod Carter, Dean of the Regis University School of Pharmacy, reported that it will graduate 50 students in May 2013. This is the first class to graduate from Regis. The admission process is already underway for its class of 2017. He also reported construction is nearing completion for the school. Upon completion, the school of pharmacy will be located in one building. The Dean also reported that the school is preparing for what is believed to be its final site visit by the Accreditation Council for Pharmacy Education (ACPE) surveyors for the next few years.

Dr. Catherine Jarvis, Assistant Dean of the University of Colorado Denver School of Pharmacy, reported that the school is actively working and communicating with the Regis University School of Pharmacy by way of quarterly meetings, and that the school is utilizing new curriculum. She further reported on the status of the admission process for its next incoming class.

**Legislation - Jeannine Dickerhofe, RPh**

Jeannine Dickerhofe provided an update to the Board regarding new legislation involving biosimilars, and that the Colorado Pharmacy Coalition has and will continue to regularly meet.

## **Inspectors**

### **Unresolved Matters & Application of Board Policy 10-1**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding the application of Board Policy 10-1 to both a Colorado-based hospital and its pharmacist manager for receiving compounded stock preparations from two, separate nonresident prescription drug outlets that did not have the authority to conduct such activity. After careful consideration of the available information, the Board voted unanimously to initiate separate complaints against Delta County Memorial Hospital (PDO 99-24) and Wedgewood Village Pharmacy (OSP 5464).

## **OLD BUSINESS**

### **Cases**

#### **Medco Health Solutions of Franklin Lakes NJ, OSP 5496 (Expired) & Case 2012-4201**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding an informal legal opinion provided by Ms. Kaye. After careful consideration of the available information, the Board determined that, based on the nature of its practice, Medco Health Solutions of Franklin Lakes NJ is not required to register with the Board as a nonresident pharmacy and therefore, the Board does not have jurisdiction over the matter. The Board voted unanimously to dismiss this case, and to refer the complaint to the New Jersey Board of Pharmacy for its review.

### **Stipulations**

#### **Daniel Edmisten, RPH 15052 & Case 2012-5095**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding Mr. Edmisten's Stipulation and Final Agency Order he entered into with Board and Case 2012-5095, which the Board tabled at its September meeting. After careful consideration of the available information, the Board voted unanimously to refer this matter to Executive Session.

After Executive Session, the Board voted unanimously to dismiss Case 2012-5095. The Board found that there was no reasonable cause to warrant further action at this time.

#### **Salem Mihalick, RPH 15006**

The Board reviewed an Agenda Memorandum from Inspector Lisa Cornett regarding a Stipulation and Final Agency Order Ms. Mihalick entered into with the Board and her request to: (1) have the Pharmacy Peer Health Assistance Diversion Program evaluate her case on an individual basis and report to the Board; and (2) have the "Active with Conditions" status removed from her pharmacist license. After careful consideration of the available information, the Board voted unanimously to refer the matter to Executive Session.

After Executive Session, the Board voted unanimously to table further consideration of the matter pending receipt of research on how other states address similar stipulations.

**Walgreen Pharmacy # 3589, PDO 79-20**

Donald Johnson, RPh, recused.

The Board reviewed an Agenda Memorandum from Inspector Lisa Cornett regarding a Stipulation and Final Agency Order Walgreen Pharmacy # 3589 entered into with the Board. After careful consideration of the available information, the Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to initiate a complaint against Walgreen Pharmacy # 3589 (PDO 79-20), and then issue a Letter of Admonition for violations of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act.

**Glenn Kruk, RPH 12225**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding Mr. Kruk's request to be released from the terms of his Stipulation and Final Agency Order he entered into with Board. .

The Board voted unanimously to table further consideration of the matter pending receipt of research on how other states address similar stipulations.

**Kim Dower, RPH 13772**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding Ms. Dower and Case 2012-5801. After careful consideration of the available information, the Board voted unanimously to refer the matter to Executive Session.

**Correspondence**

**Anonymous Concern Regarding the Profession of Pharmacy**

The Board reviewed an Agenda Memorandum from Mr. Gassen regarding an anonymous concern regarding the profession of pharmacy involving pharmacist working hours and work breaks. The Board also reviewed articles and surveys conducted by other groups pertaining to this matter. After careful consideration of the available information, the Board voted unanimously to table further consideration of this matter pending receipt of additional information from other states that are actively addressing a similar concern.

**Clarification and Proposed Amendment to Board Rule 5.01.31**

The Board reviewed a proposed amendment to Board Rule 5.01.31. After careful consideration of the available information, the Board voted unanimously to refer the proposed language to a future rules hearing.

**NEW BUSINESS**

**Complaints**

**Beaudry, John, RPH 17649**

**2012-5310**

Donald Johnson, RPh, recused.

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Blamire, Gary M., RPH 16434** **2012-5131**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Burns, Rachel, RPH 16791** **2012-5128**

The Board voted unanimously to dismiss the complaint as being without merit.

**Clinical Solutions, LLC, WHO 7601** **2012-4955**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Dang, Richard, RPH 17619** **2012-4993**

Donald Johnson, RPh, recused.

The Board voted unanimously to dismiss the complaint as being without merit.

**Hahn, Sarah, RPH 18647** **2012-5399**

Donald Johnson, RPh, recused.

The Board voted unanimously to dismiss the complaint as being without merit.

**Hodges, Donald, RPH 14000** **2012-5549**

The Board voted unanimously to dismiss the complaint as being without merit. The Board also voted unanimously to inspect all other pharmacies owned by the owner of the pharmacy where the error is alleged to have occurred and determine if methods utilized to record the identities of pharmacists conducting the initial interpretations and final evaluations correspond with required posted notices of initiation interpretation and final evaluation. The Board directed staff to initiate complaints against each pharmacy where the methods utilized and the corresponding posted notices of such methods do not correspond with each other.

**King Soopers Pharmacy # 96, PDO 155-3** **2012-5231**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Knight, Robert, RPH 15475** **2012-5392**

Armand Potestio, RPh, recused.

The Board voted unanimously to dismiss the complaint as being without merit.

**Le, Brian, RPH 14758** **2012-5407**

The Board voted unanimously to dismiss the complaint as being without merit.

**Medco Health Solutions of North Versailles, OSP 5027** **2012-4400**

The Board voted unanimously to dismiss the complaint as being without merit.

**Nuquest, Inc., PDO 53-57** **2012-4963**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**West, James, RPH 16222** **2012-4964**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Panek, Jenifer, RPH 19055** **2012-5620**

Donald Johnson, RPh, recused.

The Board voted unanimously to dismiss the complaint as being without merit.

**Parker, Ruth, RPH 11251** **2012-5621**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Quinby, Kathryn, RPH 16044** **2012-5554**

The Board voted unanimously to dismiss the complaint as being without merit.

**Vogel, Nicholas, RPH 17830** **2012-5338**

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Walgreen Pharmacy # 05538, PDO 97-11**

**2012-5133**

Donald Johnson, RPh, recused.

The Board voted unanimously to refer the case to Executive Session.

After Executive Session, the Board voted unanimously to issue a Letter of Admonition for violations of the Pharmacists, Pharmacy Businesses, and Pharmaceuticals Act.

**LICENSING/REGISTRATION**

**Affinity Biotech, Inc.**

The Board reviewed an Agenda Memorandum from Inspector Cornett regarding Affinity Biotech's application for a nonresident prescription drug outlet registration. After careful consideration of the available information, the Board voted unanimously to refer the matter to Executive Session.

After Executive Session, the Board voted unanimously to deny the registration. Grounds for denial included, but were not limited to, CRS 12-42.5-123(1)(c).

**MISCELLANEOUS**

**Correspondence, etc.**

**Request for Confidential Agreement from Meki Orr, RPH 18887**

The Board reviewed an Agenda Memorandum from Ms. Anderson regarding Meki Orr's request to enter into a Confidential Agreement with the Board to retroactively remove her disciplinary action for substance abuse pursuant to the Stipulation and Final Agency Order she had previously entered into with the Board. After careful consideration of the available information, the Board voted unanimously to deny Ms. Orr's request.

**Summary Report of the Colorado Pharmacist Summit: Strategizing Action for Integration and Leadership (SAIL), September 26, 2012**

The Board noted the information.

**Request for Newsletter Item**

After careful consideration of the available information, the Board voted unanimously to develop educational outreach regarding Colorado's law which prohibits the compounding of commercially available drugs unless they are significantly different from the commercially available drug, however such outreach will not include a specific drug by name.

**Security Violation**

After careful consideration of the available information, the Board voted unanimously not to act on the information.

**Licensee's Alleged Failure to Report Discipline in Another State and Misdemeanor**

This matter was removed from the agenda.

**Self-Reported Discipline in Another State**

After careful consideration of the available information, the Board voted unanimously to refer the matter to Executive Session.

**Brian A. Kahan, R.Ph., J.D., President of RxLaw.org, Inc.**

The Board noted the information.

**Peer Assistance Services Fiscal Year 2012, 4<sup>th</sup> Quarter Report to Board**

The Board noted the information.

**Peer Assistance Services Fiscal Year 2013, 1<sup>st</sup> Quarter Report to Board**

The Board noted the information.

**Report of the Task Force on Uniform Prescription Labeling Requirements**

The Board noted the information.

**Peer Assistance Services Financial Report to Board**

The Board noted the information.

**EXECUTIVE SESSION**

At 11:55 a.m., Board President Paul Limberis, R.Ph. moved that the Board enter into Executive Session.

The motion was seconded. The vote was unanimous with six votes approving the motion to go into Executive Session and none opposing.

The Board exited Executive Session at 1:52 p.m.

At 2:42 p.m., Board President Paul Limberis, R.Ph. moved that the Board re-enter into Executive Session.

The motion was seconded. The vote was unanimous with six votes approving the motion to go into Executive Session and none opposing.

The Board exited Executive Session at 2:45 p.m.



**Open Session**

**Case 2012-5007**

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Case 2012-5351**

Paul Limberis, RPh, recused.

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Case 2012-5574**

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Case 2012-5145**

Paul Limberis, RPh, recused.

The Board voted unanimously to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Case 2012-1594**

The Board voted unanimously to rescind its previous referral of this case to discipline and to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

**Case 2010-0129**

The Board voted unanimously to offer the Respondent an opportunity to be re-evaluated by the Pharmacy Peer Health Assistance Diversion Program and to review the findings of that evaluation for further consideration. The Board also voted unanimously to refer the allegations made by the Respondent against the Respondent's prior substance abuse monitor, along with the monitor's corresponding responses to those allegations, to both the Colorado State Board of Addiction Counselor Examiners and the Colorado State Board of Social Work Examiners for their review.

**ADJOURNMENT**

The Board adjourned at 2:46 p.m.

*Approved by Paul Limberis, R.Ph., President      Date: January 17, 2013*